IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE EIGHTEENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

-

WRIT PETITION NO : 129 of 2005

Between:

Vissa Television Network Ltd., rep by its Authorised Person

R.Radha Krishnan, 157-A,Kamalapuri Colony, III Phase, Hyderabad.

..... PETITIONER

AND

1 The Authority under the A.P.Shops & Estb.Act, 1988 & the Labour Officer-I,

Hyderabad Anjaiah Bhavan, RTC X Roads, Hyderabad.

2 D.Maheshwara Chary S/o.D.V.Chary
86EWSH,New Santosh Nagar Colony, Saidabad, Hyderabad.

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of a Writ of Mandamus, declaring the action of the 1st respondent herein in DISMISSING the I.A.No.3/2004 in SE No.27/2004 vide its order dt 23-12-2004, is illegal and improper and arbitrary without considering the legal provisions of the A.P. Shops & Establishment Act and consequently stay all further proceedings in SE No.27/2004.

Counsel for the Petitioner: MR.M.NAGA RAGHU

Counsel for the Respondent No.1: GP FOR LABOUR

Counsel for the Respondent No.2: --

The Court made the following:

ORDER:

Challenging the Order passed in I.A.No.3 of 2004 in S.E.No.27 of 2004 by the Labour Officer-I, Hyderabad, dated 23.12.2004, the present writ petition is filed.

The learned counsel for the petitioner vehemently contended that the Labour Officer-I, the 1st respondent herein, has no jurisdiction under Section 73 (1) (a) of the Andhra Pradesh Shops and Establishments Act, 1988 (for short the 'Act') as admittedly the 2nd respondent's salary is exceeding Rs.1,600/-. Therefore, the 1st respondent has no jurisdiction to determine the wages of the 2nd respondent under Section 50 of the Act.

On the other hand, the learned Government Pleader for Labour appearing for the 1st respondent contended that the petitioner failed to establish before the 1st respondent that the 2nd respondent was enjoying the position of management and has control over the affairs of the establishment and therefore, the impugned order does not suffer from any legal infirmity.

The 2nd respondent herein filed S.E.No.27 of 2004 before the 1st respondent under Section 50 of the Act for non-payment of wages for the month of October, 2004. According to the 2nd respondent in the said S.E., he is entitled for salary of Rs.7,600/- per month.

It is pertinent to note that under Section 50 of the Act, in respect

of the claims arising out of deductions from the wages or delay in payment of wages or service compensation payable under the Act to an employee in any establishment, the employee can approach the competent authority. It is not in dispute that the Labour Officer-I is the competent authority as specified under Section 50 of the Act.

The only contention raised by the petitioner is that since the 2nd respondent is getting salary of more than Rs.1,600/- per month, the Labour Officer who passed this order has no jurisdiction to initiate claim under Section 73 (1) (a) of the Act. There is no material at this stage to show that the 2nd respondent is in position of management or has control over the affairs of the establishment.

Viewed from any angle, this aspect has to be decided after adducing necessary evidence. Therefore, the 1st respondent has rightly held that Section 73 (1) (a) of the Act does not apply. Hence, the order under challenge does not suffer from any legal infirmity warranting interference of this Court.

Accordingly, the writ petition is dismissed. No costs.

It is left open to the petitioner to raise all the contentions before the 1st respondent-Labour Officer. The observations made in this order shall not have any bearing or binding effect during the trial of the case in S.E.No.27 of 2004 on the file of Labour Officer-I, Hyderabad.

18.01.2005

VGB

To

1 The Authority under the A.P. Shops & Establishments Act, 1988 & the

Labour Officer-I, Hyderabad Anjaiah Bhavan, RTC X Roads, Hyderabad.
2. 2CCs to G.P. for Labour, High Court buildings, Hyderabad.(OUT).

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